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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/557,290	12/04/2006	Scott Quigley	VOI0447.US	7620

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EXAMINER
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MUROMOTO JR, ROBERT H

ART UNIT	PAPER NUMBER
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3765

MAIL DATE	DELIVERY MODE
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01/23/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/557,290

Applicant(s)

QUIGLEY ET AL.

Examiner

Robert H. Muromoto, Jr.

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

This application repeats a substantial portion of prior Application No. 10443474, filed 5/22/2003, and adds and claims additional disclosure not presented in the prior application. Since this application names an inventor or inventors named in the prior application, it may constitute a continuation-in-part of the prior application. Should applicant desire to obtain the benefit of the filing date of the prior application, attention is directed to 35 U.S.C. 120 and 37 CFR 1.78.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites "said upper yarns" without any clear antecedent basis. Claim 1 has set forth 'upper fabric' comprising 'warp yarns, fabric born warp yarns and upper weft yarns.' No clear antecedent basis for "upper yarns" exists as there are 3 choices for 'upper yarns'.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, and 12-14 rejected under 35 U.S.C. 102(b) as being anticipated by Vohringer US patent 5,152,326.

'326 discloses a composite papermaking fabric having upper and lower fabrics each having warp and weft yarns as claimed.

In figures 2b and 2c, '326 shows a warp binder pair every 4th warp yarn. This binder pair is made of two warp yarns, each are a part of both upper and lower fabrics and form binding knuckles over a plurality of the upper weft yarns as claimed. The binder yarns are equivalent to recited 'fabric born warp yarns'.

The upper fabric is woven in a linen or plain or 1 up, 1 down weave design.

Figures 2b and 2a show the warp yarns cover a "major" portion of the fabric as the binder pair (fabric born warps) only weave in every 4th warp line (a "minor" portion), as claimed.

Figures clearly show fabric born warps passing over many upper wefts forming binding points as claimed.

Figure 2b shows the binding points forming a 'broken twill' (broken diagonal) line across the weave pattern as claimed.

Figure 2a clearly shows upper warp yarn floating beneath upper weft yarns at binding points/knuckles. The position of the warp inherently provides vertical support maintenance of the support surface as claimed.

The lower fabric is disclosed as a broken twill design.

Figure 5c clearly shows multiple weft floats per lower weft yarn.

Both independent claims 1 and 12 are disclosed in discussion above. As claims 1 and 12 claim virtually the same limitations with slight variation in the breadth of the language in the claim language. Claim 12 appears slightly broader than claim 1.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over '326 above in view of Schroder US patent 5,343,896.

Although '326 teaches essentially all of the limitations of the claimed invention, '326 does not specifically teach a strict weave repeat pattern (number of warps, number of fabric born warps, number of wefts per repeat (ratio), number of warps (shafts) per repeat), as claimed.

'326 teaches, "it will understood by those skilled in the art that the scope of the invention is not so limited, but extends naturally to a multiplicity of kinds of fabrics with different repeat

patterns and number of layers in both the upper and lower fabrics without departing from the spirit and scope of the invention.”

Also Schroder teaches, “it will be recognized by those of ordinary skill in the art that the length of the float, the number of MD yarns in the repeat, and the ordering of the MD yarns may be selected as desired so that other patterns, twill or non-twill, are produced.”

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to modify the fabric taught by '326 to use various weave design repeat patterns ( all limitations in claims 8-11 affect weave design repeat patterns) as taught by both '326 and Schroder to produce papermaker's fabrics with various desired patterns.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert H. Muromoto, Jr. whose telephone number is 571-272-4991. The examiner can normally be reached on 8-530, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on 571-272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Bobby Muromoto  
/Bobby Muromoto/  
Patent examiner  
Art unit 3765  
January 17, 2008